Legislative Analysis

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FINANCIAL RECOVERY BONDS

Senate Bill 318 as passed by the Senate
Sponsor: Sen. Hoon-Yung Hopgood
House Committee: Local, Intergovernmental, and Regional Affairs
Senate Committee: Education

Complete to 5-4-11

A SUMMARY OF SENATE BILL 318 AS PASSED BY THE SENATE 4-28-11

The bill would amend the Home Rule City Act (MCL 117.36a) to provide for the issuance of financial recovery bonds by the City of Ecorse to pay court-ordered judgments against the city, and to provide for the deposit of tax revenue into an escrow account for the payment of the bonds

Under Section 36a of the act, city can issue financial recovery bonds in amounts greater than the limitations established by the city charter or the act if a financial emergency exists under the Local Government and School District Fiscal Accountability Act.

The bill would apply to a city that has a population under 10,000 according to the latest federal decennial census, and is located in a charter county. According to the Senate Fiscal Agency, the City of Ecorse meets both of these criteria, and a financial emergency has been found to exist in the city. Financial recovery bonds issued under the bill would be limited to the total amount necessary to pay court-ordered judgments against the city that exist on the bill's effective date.

In the order that authorizes the issuing of bonds, city officials could provide for the deposit of revenue generated from taxes levied by the city (including a tax levied to pay a judgment or comply with a court order) into an escrow account to be used to pay the principal, the interest, and the administrative costs associated with issuing the bonds, and then pledge the tax revenue for the payment of the bonds.

If the city entered into an agreement with a third-party tax collector for the collection of taxes that the city treasurer otherwise would collect, the agreement would have to provide for the direct payment of all tax revenue pledged for the payment of financial recovery bonds collected by the third-party tax collector to a trustee to be deposited into an escrow account and used for the sole purpose of paying the principal of and interest on the bonds.

The tax revenue paid to the trustee would be subject to a lien and trust, which would be a statutory lien and trust superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on the financial recovery bonds and any other bonds subsequently issued by the city sharing a parity or subordinate pledge of that tax revenue. The tax revenue would have to be held in trust for the sole benefit of the bondholders and would be exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city other than for payment of debt service on the bonds subject to the lien.

Section 36a provides that the net indebtedness of a city, reduced by amounts excluded under Section 4a, may not exceed 20 percent of the city's assessed value. Notwithstanding this provision, if Ecorse issued financial recovery bonds under the bill, its net indebtedness, reduced by the excluded amounts, could not exceed 10 percent of the city's assessed value. (Section 4a sets limits on a city's net indebtedness incurred for all public purposes, and excludes certain bonds and obligations from the computation of net indebtedness.)

FISCAL IMPACT:

As written, the bill would have no impact on state revenue or expenditures, but would increase costs for local units of government by allowing them to issue bonds as a method of fulfilling a court judgment. The additional costs would be the amount of interest necessary to finance the bonds.

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